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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

FIREWORKS LADY & CO., LLC,

Plaintiff,

vs.

FIRSTRANS INTERNATIONAL CO.,

Defendant.

Case No.: _____

COMPLAINT
1) ANTI-TRUST

Plaintiff brings this action on behalf of herself and all others similarly situated, against (1) the Defendant known as “FIRSTRANS”: Firstrans International Co. Plaintiff alleges the following based upon information and belief, the investigation of counsel, and personal knowledge as to the factual allegations pertaining to herself.

I. INTRODUCTION

1. If customers in the United States want fireworks from the People’s Republic of China (PRC), they have no choice but to go through one man—Mr.

1 Ding. Ding Yan Zhong, known to the fireworks industry as Mr. Ding, has
2 controlled the flow of fireworks from the PRC to the U.S. for a decade.
3
4 Approximately 70% of all Chinese fireworks come to the U.S. under his control,
5 allowing him to raise prices and block competitors.

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7 2. Mr. Ding controls two companies that dominate the importation of
8 Chinese fireworks into the U.S.: Shanghai Huayang International Logistics Co.
9 Ltd. (“Huayang”) and Firstrans International Co. (“FIRSTRANS”). Huayang
10 ships the majority of Chinese-produced fireworks from production to seaports in
11 the PRC. FIRSTRANS specializes in importing these fireworks into the US.
12 Through these companies, Ding has gained control of the fireworks market
13 coming from China and into the US. Ding leverages his market power by
14 requiring that US customers, as a condition of purchasing his fireworks, use
15 FIRSTRANS to ship them to the U.S. (“Tying Arrangement”). This Tying
16 Arrangement has allowed FIRSTRANS to charge grossly supracompetitive
17 shipping prices. The shipping cost that FIRSTRANS charges, the “Tied Product,”
18 is the subject of this Action.
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23 3. Plaintiff, FIREWORKS LADY & CO., LLC, brings this suit on
24 behalf of itself and a class of American fireworks merchants and customers who
25 have hired FIRSTRANS for the purposes of shipping fireworks (the “Direct
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Purchaser Class”), and for damages they have suffered by paying an illegal shipping premium on Chinese fireworks. Plaintiff and the Direct Purchaser Class also seek injunctive relief. Plaintiff and the Direct Purchaser Class bring these claims under the Sherman Act (15 U.S.C. §§ 1-7) and the Clayton Act (15 U.S.C. §§ 12-27) to challenge the Tying Arrangement as an unlawful restraint of trade.

II. PARTIES

4. Plaintiff, Fireworks Lady & Co., LLC, is organized and existing under the laws of the State of Florida, with a principal place of business at 8600 SW South River Drive, Suite 75, Miami, Florida.

5. Defendant Firstrans International Co. (“FIRSTRANS”) is an American company that, upon information and belief, is organized and existing under the laws of the State of Indiana with its principal place of business located at 17420 S. Avalon Blvd., Suite 204, Carson, California.

III. JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 based upon the federal antitrust claims asserted under the Sherman Act, 15 U.S.C. § 1 et seq. The Court has personal jurisdiction over Defendant pursuant to 18 U.S.C. §§ 1965(a), (b), and (d). Pursuant to section 16 of the Clayton Act, 15 U.S.C. § 26, this action seeks to prevent and restrain violations of section 1 of the

1 Sherman Act, 15 U.S.C. § 1. In addition, the Plaintiffs seek damages pursuant to
2 section 4 of the Clayton Act, 15 U.S.C. § 15.
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4 7. Venue is proper in this district under 28 U.S.C. § 1391(b) because
5 the Defendant maintains a principal place of business in this judicial district.
6

7 **IV. FACTUAL ALLEGATIONS**

8 8. Mr. Ding controls approximately 70% of all Chinese fireworks
9 entering the United States. This staggering market share has allowed Mr. Ding to
10 set the prices and shipping costs of fireworks coming from the People's Republic
11 of China (PRC).
12

13 9. Ding owns two companies that he uses to dominate the fireworks
14 market from the PRC: Firstrans International Co. ("FIRSTRANS") and Shanghai
15 Huayang International Logistiscs Co., Ltd. ("Huayang").
16

17 10. FIRSTRANS is a Non-Vessel Operating Common Carrier
18 (NVOCC) licensed by the Federal Maritime Commission (FMC). As such, it
19 must have an approved Qualifying Individual (QI) and carry the appropriate
20 bonds. Generally speaking, there is a competitive market for NVOCC shippers.
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22 11. FIRSTRANS arranges the importation of goods for American
23 customers. It also arranges the inland shipment of these imported goods to the
24 U.S.
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1 12. FIRSTTRANS specializes in arranging the shipment of fireworks
2 from the PRC to the U.S. It also arranges the shipment of other goods, such as
3 electronics, clothing, industrial goods and plastics.
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5 13. Over recent decades, the PRC has moved most of the production of
6 fireworks for export from urban provinces along the coasts such as Guangdong,
7 to rural interior provinces such as Hunan and Jiangxi.
8

9 14. Today, approximately 70% of the fireworks exported from China
10 come from the interior provinces of Hunan and Jiangxi.
11

12 15. Consumer fireworks are classified by the U.S. Department of
13 Transportation (U.S. DOT) for transportation as hazardous materials, commonly
14 known by its labeling and placarding as 1.4G explosives; whereas, display
15 fireworks used exclusively by licensed professionals are designated as 1.3G
16 explosives.
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19 16. In the PRC, fireworks for export are trucked from the firework
20 production factories to consolidation warehouses for assembling of the orders and
21 packing into shipping containers.
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23 17. Export firework factories as well as the consolidation warehouses
24 are required to have various licenses and/or permits from the PRC, as well as
25 from provincial and local governments.
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1 18. Mr. Ding's other company, Huayang, a Chinese company, owns and
2 operates consolidation warehouses in the interior provinces, such as Hunan, with
3 the required licenses and/or permits from the PRC. Ownership of these
4 consolidation warehouses gives Mr. Ding effective control over the fireworks
5 shipments from China's interior provinces (70% of the fireworks market)
6
7

8 19. Huayang also arranges the inland shipment of goods in China as
9 well as the ocean-going container ships (slot charters) to carry the goods exported
10 from the PRC to countries around the world, including the U.S.
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12 **HOW DING GAINED CONTROL**

13
14 20. Before February 2008, companies could ship fireworks out of a
15 number of ports in the PRC. However, a fireworks explosion led Chinese
16 authorities to require almost all fireworks to be shipped out of Shanghai. This
17 consolidation allowed Ding to take control of the supply of fireworks produced in
18 the PRC.
19

20
21 21. On February 14, 2008, a series of fires and explosions destroyed the
22 fireworks consolidation and packing warehouses in Foshan, Guangdong. 15,000
23 cartons of fireworks spread across 20 warehouses in Foshan exploded in the
24 middle of the night.
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1 22. The loss of these facilities in Foshan led quickly to the closures of
2 other facilities by various PRC government officials. PRC Government officials
3 also required companies to obtain special permits to ship fireworks.
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5 23. The only remaining consolidation warehouses were owned and
6 operated by Huayang, thus restricting the export firework factories in Hunan and
7 Jiangxi to only the Huayang facilities.
8

9 24. Huayang leveraged this situation to their advantage to dictate the
10 methods, timeliness and rates for export fireworks, warehouse services and inland
11 shipping from Hunan and Jiangxi to the seaports.
12

13 **DING'S SHIPPING ROUTE**

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15 25. After production in Hunan and Jiangxi, Huayang trucks the
16 fireworks from the export firework factories to Huayang's consolidation
17 warehouses.
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19 26. Then, Huayang assembles the fireworks for orders and for
20 subsequent export and packs them into shipping containers.
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22 27. Huayang then ships the loaded containers of fireworks, often using
23 the Huayang fleet of river barges, to Shanghai and other seaports.
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1 28. Once in Shanghai or another seaport, Huayang arranges shipment of
2 the fireworks across the ocean to the U.S. In the U.S, these fireworks are
3 frequently received by Huayang's sister company, FIRSTRANS.
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5 29. Huayang also leveraged this situation to dictate the methods,
6 timeliness and rates of shipments of fireworks from other provinces, such as
7 Guangxi.
8

9 30. Huayang also leveraged this situation to dictate the methods,
10 timeliness and rates of the handling of the containers in the seaports, as well as
11 the bookings on the slot charters.
12

13 31. Huayang also leveraged this situation to dictate the methods,
14 timeliness and rates for inland shipping within the U.S., by requiring U.S.
15 customers to use its sister company, FIRSTRANS (the Tying Arrangement).
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18 **HARM TO CONSUMERS**

19 32. In 2008, Ding's company Huayang transported 64,217,430 pounds
20 of fireworks, according to Panjiva Inc., a firm that tracks companies involved in
21 global trade. The next year, Huayang's volume increased to 79,541,209. By May
22 of 2018, Huayang had transported 241 million pounds of fireworks from China to
23 the U.S. that year alone. Ding's company has almost exclusive control of
24 upwards of 70% of the supply of fireworks from China.
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1 33. Ding requires U.S. customers to use his other company,
2 FIRSTRANS, to ship fireworks into the U.S. Since Ding has almost exclusive
3 control over the fireworks market in China, other companies cannot compete and
4 gain entry into the shipping market. Thus, U.S. customers have to rely almost
5 exclusively upon FIRSTRANS to purchase Chinese fireworks.
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7

8 34. The anticompetitive Tying Arrangement and consequent market
9 consolidation has allowed FIRSTRANS to greatly increase shipping costs.
10 Before the explosion in Foshan, China, in 2008, the cost of shipping a container
11 of fireworks from the PRC was roughly \$5,000. Now, FIRSTRANS charges
12 between \$8,000 and \$15,000 to ship a container of consumer fireworks (1.4G) to
13 be sold at roadside tents and convenience stores and big-box stores alike, while
14 charging nearly \$20,000 to ship a container of 1.3G explosive materials.
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18 35. As a result of this Tying Arrangement, American fireworks
19 importers are paying an estimated \$3,000 to \$10,000 more per container than
20 they might otherwise pay for the same warehouse and shipping services booked
21 through other companies.
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23 36. Another effect of the Tying Arrangement is that it effectively
24 precludes a competitive low-cost provider from accessing the shipping market.
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1 Because of the Tying Arrangement, FIRSTRANS and Huayang have the ability
 2 to share in supracompetitive shipping rates.
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4 37. About 7,500 forty (40') foot containers (equaling 15,000 TEUs) of
 5 fireworks are exported from China to the U.S. each year at a cost of over \$250
 6 million.
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8 38. The additional costs due to these predatory market practices by
 9 FIRSTRANS results in American importers of fireworks paying an additional
 10 \$15 to \$20 million more per year.
 11

12 **V. CLASS ACTION ALLEGATIONS**

13 **A. Class Definition**

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 15 39. Pursuant to the provisions of Rules 23(a), (b)(2), and (b)(3) of the
 16 Federal Rules of Civil Procedure, Plaintiff brings this action seeking damages
 17 and equitable and injunctive relief under section 1 of the Sherman Act, 15 U.S.C.
 18 § 1, and section 4 of the Clayton Act, 15 U.S.C. § 15, on behalf of herself and the
 19 following class:
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22 All persons or entities in the United States
 23 (including its territories and the District of Columbia)
 24 who have hired Firstrans International Co. for purposes
 25 of shipping fireworks from the People's Republic of
 26 China into the United States, from February 14, 2008 to
 27 [date of public notice to the class].
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1 Excluded from this “Direct Purchaser Class” are
2 the defendants, and their officers, directors, management,
3 employees, subsidiaries, and affiliates, and all federal
4 governmental entities. Plaintiff reserves the right to
5 revise the Class Definition based upon information
6 learned through discovery.

7 **B. Class Certification Requirements Under Rule 23**

8 40. **Numerosity:** Rule 23(a)(1). The members of the Direct Purchaser
9 Class are so numerous and geographically dispersed that individual joinder of all
10 Class members is impracticable. Plaintiff is informed and believes that the
11 members of the Direct Purchaser Class number in the thousands. The precise
12 number of Direct Purchaser Class members may be ascertained from Defendant’s
13 records. Class members may be notified of the pendency of this action by
14 recognized, Court-approved notice dissemination methods, which may include
15 U.S. mail, electronic mail, internet postings, social media, and published notice.
16

17 41. **Commonality and Predominance:** Rules 23(a)(2) and 23(b)(3).
18 This action involves significant common questions of law and fact, which
19 predominate over any questions affecting individual Direct Purchaser Class
20 members, including, but not limited to:
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22 a. Whether Defendant demands from merchants, as a condition
23 of being permitted to accept the Tying Products, that the merchant must
24 also accept the Tied Product;
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1 b. Whether Defendant's Tying Arrangements are per se unlawful,
2 because:
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4 i. Defendant possesses and exercises monopoly or market
5 power in the market in which its Tying Product competes; or
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7 ii. Defendant possesses economic power sufficient to make
8 probable the coercive Tying Arrangements;
9

10 c. Whether the shipping rates that members of the Class have
11 been forced to pay on the Tied Products exceed the rates that would prevail
12 in the absence of the Tying Arrangements, or in otherwise competitive
13 markets for fireworks shipping services;
14

15 d. Whether Plaintiff and the other Direct Purchaser Class
16 members had fewer choices than they would have had if Defendant had not
17 engaged in the conduct alleged herein;
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19 e. Whether Plaintiff and the other Direct Purchaser Class
20 members overpaid to ship Chinese Fireworks as a result of Defendant's
21 anticompetitive behavior;
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23 f. The identity of the participants and co-conspirators in the
24 scheme alleged herein;
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1 g. Whether Defendant's conduct violates the Sherman and
2 Clayton Acts;

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4 h. Whether Plaintiff and Direct Purchaser Class members were
5 injured in their business or property by Defendant's conduct;

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7 i. Whether Plaintiff and Direct Purchaser Class members are
8 entitled to equitable relief, including, but not limited to, restitution or
9 injunctive relief; and

10
11 j. Whether Plaintiff and Direct Purchaser Class members are
12 entitled to damages and other monetary relief and, if so, in what amount.

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14 42. **Typicality:** Rule 23(a)(3). Plaintiff's claims are typical of the claims
15 of the Direct Purchaser Class members whom it seeks to represent under Federal
16 Rule of Civil Procedure 23(a)(3), because Plaintiff and each Class member hired
17 Defendant to ship Chinese fireworks into the U.S. and were similarly injured as a
18 direct and proximate result of the same wrongful practices by Defendant.
19 Plaintiff's claims arise from the same practices and courses of conduct that give
20 rise to the claims of the other Direct Purchaser Class members. Plaintiff's claims
21 are based upon the same legal theories as the claims of the other Direct Purchaser
22 Class members.
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1 43. **Adequacy:** Rule 23(a)(4). Plaintiff will fairly and adequately
2 represent and protect the interests of the Direct Purchaser Class members as
3 required by Federal Rule of Civil Procedure 23(a)(4). Plaintiff has retained
4 counsel competent and experienced in complex class action litigation, including
5 federal antitrust litigation. Plaintiff intends to prosecute this action vigorously.
6 Neither Plaintiff nor its counsel has any interests that conflict with the interests of
7 the other Direct Purchaser Class members. Therefore, the interests of the Direct
8 Purchaser Class members will be fairly and adequately protected.

9 44. **Declaratory and Injunctive Relief:** Rule 23(b)(2). Defendant has
10 acted or refused to act on grounds generally applicable to Plaintiff and the other
11 members of the Direct Purchaser Class, thereby making appropriate final
12 injunctive relief and declaratory relief, as described below, with respect to the
13 Direct Purchaser Class as a whole.

14 45. **Superiority:** Rule 23(b)(3). A class action is superior to any other
15 available means for the fair and efficient adjudication of this controversy, and no
16 unusual difficulties are likely to be encountered in the management of this class
17 action. The burden and expense that would be required to individually litigate the
18 Direct Purchaser Class claims against Defendant would be impracticable for

1 members of the Direct Purchaser Class to individually seek redress for
2 Defendant's wrongful conduct.

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4 46. Even if Direct Purchaser Class members could afford individual
5 litigation, the court system could not. Individualized litigation creates a potential
6 for inconsistent or contradictory judgments and increases the delay and expense
7 to all parties and the court system. By contrast, the class action device presents
8 far fewer management difficulties and provides the benefits of single adjudication,
9 economies of scale, and comprehensive supervision by a single court.
10

11 **VI. CLAIMS FOR RELIEF/CAUSES OF ACTION**

12 **Violation of the Sherman Act (15 U.S.C. §§ 1-7) and the Clayton Act** 13 **(15 U.S.C. §§ 12-27).**

14
15 47. Plaintiff and the Direct Purchaser Class hereby incorporate each
16 preceding and succeeding paragraph as though fully set forth herein.
17

18
19 48. Beginning at a time presently unknown to Plaintiff and the Direct
20 Purchaser Class, but at least from February 14, 2008 onwards, Defendant has
21 engaged in restraint of trade in violation of section 1 of the Sherman Act, 15
22 U.S.C. § 1, and the Clayton Act, 15 U.S.C. § 12, et seq. Defendant has violated
23 the Sherman Act through the unlawful tying of acceptance of fireworks from the
24 PRC and shipping services provided by Defendant.
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1 49. In furtherance of the unlawful conspiracy, the Defendant has
2 committed overt acts, including, inter alia:
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4 a. Unlawfully tying the acceptance of fireworks imported from
5 the PRC to shipping services provided by the Defendant;
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7 b. Defendant selling fireworks produced in the PRC to American
8 merchants subject to the Tying Arrangement under which merchants are
9 required to accept shipping costs at the offered rate, as a condition of being
10 permitted to accept (or continue to accept) fireworks from the PRC.
11

12 50. The anticompetitive behavior alleged herein has had the following
13 effects, among others:
14

15 a. Price competition in the shipment of Chinese Fireworks sold
16 in the United States by Defendant has been restricted;
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18 b. Prices to ship Chinese fireworks into the United States by
19 Defendant have been fixed, raised, maintained, and/or stabilized at
20 artificially high, non-competitive levels;
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22 c. Defendant has fixed, raised, maintained, and/or stabilized
23 artificially high profit margins on the shipment of fireworks, to the
24 detriment of Plaintiff and the Direct Purchaser Class; and
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1 d. Plaintiff and members of the Direct Purchaser Class have
2 been deprived of the benefits of free and open competition;
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4 51. The Tying Arrangement affects a substantial amount of commerce in
5 the Tied Product Market. Ding's companies import roughly 70% of all Chinese-
6 produced fireworks into the U.S. U.S. merchants and customers spend roughly
7 \$250 million a year to import fireworks from the PRC.
8

9 52. The Tying Products (fireworks produced in the PRC) are distinct
10 from the Tied Products (shipping services provided by the Defendant).
11

12 a. The fireworks produced in the PRC are offered separately
13 from the shipping services provided by the Defendant.
14

15 b. The price of Chinese-produced fireworks imported by the
16 Defendant is distinct from the price to ship them from the PRC to the U.S.
17

18 c. Purchasers perceive that the fireworks and shipping services
19 are separate items with separate demand.
20

21 d. There is sufficient demand for the Tied Products separate
22 from the Tying Product to identify a distinct product market in which it is
23 efficient to offer the items separately. Without the Tying Arrangement,
24 other shipping companies would be able to enter the market and offer
25 shipping services.
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1 53. Defendant has tied the provision of Fireworks at issue on this Claim
2 for Relief, as the Tying Arrangement has been implemented in hundreds of
3 millions of dollars of merchant agreements. Plaintiffs have no other viable
4 economic choice but to accept the Defendant's shipping rates in order to continue
5 purchasing Chinese-produced fireworks from the Defendant's sister company,
6 Huayang.
7

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9 54. Defendant has appreciable market power in the Tying Product
10 Market. Defendant ships roughly 70% of all Chinese fireworks into the U.S.
11 Defendant's dominant market share allows it to force the Tying Arrangement on
12 unwilling customers and to raise prices for the Tied Item.
13
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15 55. The maintenance of the Tying Arrangement has the effect of
16 foreclosing competition; raising prices to merchants, and hence their customers,
17 for shipping services to the U.S.; driving up shipping costs for merchants and
18 their customers and blocking competitors from entering the market; and is
19 otherwise anticompetitive.
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22 56. If Defendant could not provide the Tied Product subject to the
23 condition that the merchant must accept the shipping rates or forfeit the ability to
24 accept the Tying Products, then Defendant could not have charged merchants
25 supracompetitive rates for the Tied Products.
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1 57. The conduct of Defendant constitutes a per se violation of Section 1
2 of the Sherman Act, 15 U.S.C. § 1.

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4 58. The Tying Arrangement is per se unlawful. Alternatively, to the
5 extent it is measured under a “rule of reason” analysis, the adverse effect of the
6 Tying Arrangement upon competition as a whole in the relevant market for
7 fireworks is not outweighed by any pro-competitive virtue in that market, and
8 any pro-competitive virtue could be achieved through alternative means that are
9 less restrictive of competition.
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11
12 59. In the absence of appropriate injunctive relief, Defendant’s
13 violations of the antitrust laws will continue unabated and the Class will continue
14 to suffer the harms complained of in this action.
15

16 60. As a direct, foreseeable and proximate result of Defendant's
17 violation of the Sherman Act, section 1, Plaintiff and members of the Direct
18 Purchaser Class have been injured and damaged in their respective businesses
19 and property in an amount to be determined according to proof and are entitled to
20 recover threefold the damages sustained pursuant to Section 4 of the Clayton Act,
21 15 U.S.C. § 15.
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25 WHEREFORE, Plaintiff respectfully demands:
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1 A. That the Court declare, adjudge and decree that Defendant has
2 committed the violations of federal law alleged herein;
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4 B. That the Court enter an Order pursuant to Fed. R. Civ. P. 23
5 permitting this action to be maintained as a class action on behalf of the Class
6 specified herein;
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8 C. That defendant be permanently enjoined and restrained from
9 implementing or enforcing the Tying Arrangement, or from entering into
10 agreements with merchants whereby the ability of the merchant to accept Chinese
11 Fireworks is conditioned upon its agreement to accept that those fireworks be
12 shipped through Defendant;
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15 D. That the Court award damages, based upon overcharge incurred by
16 the Damages Class on the shipment of Chinese Fireworks, in amounts to be
17 determined at trial and then trebled;
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19 E. That the Court award attorneys' fees and costs of suit; and
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1 F. That the Court award such other and further relief as it may deem
2 just and proper.
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4 Dated this 31st day of December, 2018.

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